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October 30, 1985

Mr. Harold L. Higgins, Jr.
Jones, Dickerman, Nuckolls,
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6601 East Grant Road
Tucson, Arizona 85751

RE: I85-117 (R85-123)

Dear Mr. Higgins:

On September 5, 1985, you provided to the Tucson Unified School District your opinion that the district is authorized in A.R.S. § 15-382 to provide and pay for, as part of a district self-insurance program for workers' compensation benefits, "a purely preventive 'wellness program,' designed to promote employee health and reduce work-related injuries. This program would include such benefits as subsidized discount memberships at health clubs."

Pursuant to A.R.S. § 15-253, we revise your opinion.

A.R.S. § 15-382 authorizes a school district governing board to determine that the best interests of a school district would be served by the board's establishing and funding, either wholly or partially, one or more employee benefit programs. Such employee benefit programs are denominated in § 15-382 as "self-insurance programs." A.R.S. § 15-382(A) and (E).

A.R.S. § 15-382(C) provides that a school district governing board upon establishing a self-insurance program shall place in trust all funds that the board allocates to the program and all funds that its employees contribute to the program, if the board partially funds the program. If a school district governing board establishes more than one

self-insurance program for employee benefits, then for each such program the board is required to establish a separate trust into which the board would place all funds allocated or contributed to each program.

A.R.S. § 15-382 does not define or describe specifically the benefits that a school district governing board may include in a self-insured employee benefit program. That being the case, a school district governing board is authorized to exercise its discretion to include in employee benefits programs what it determines to be in the best interest of the school district, within the context of A.R.S. § 15-382.

Notwithstanding that § 15-382 does not define with particularity the scope of authorized benefits, subsection (C) provides that funds in a program trust may be expended for "payment of uninsured losses, claims, defense costs and other related expenses."

Our inquiry then is whether an expenditure from a trust for workers' compensation benefits for "a purely preventive 'wellness program' designed to promote employee health and reduce work-related injuries" would be for "payment of uninsured losses, claims, defense costs and other related expenses" associated with workers' compensation benefits within the meaning of A.R.S. § 15-382(C).

In Ariz.Atty.Gen.Op. I85-017 we concluded that A.R.S. § 15-382 did not authorize payment of premiums from a self-insurance program trust for insurance policies that would have provided optional alternative benefits to school district employees. We based our conclusion on our construction of A.R.S. § 15-382(C) that the payment of insurance premiums was not a payment of uninsured losses, claims, defense costs or other related expenses. We said that "other related expenses" as used in paragraph (C) are expenses similar to those associated with a loss or a claim.

Upon further consideration of the scope of expenditures authorized under § 15-382(C) we are persuaded that the phrase "other related expenses" means expenses akin to, or allied with, uninsured losses, claims and defense costs. See 36A, Words & Phrases, 383 (1962). To ascribe to the phrase "other related expenses" a meaning that would include all expenses that might in any way be related to employee benefits

would make unnecessary and superfluous the specification of "uninsured losses," "claims" and "defense costs" as authorized payments.

The courts favor construction of a statute that renders every word operative rather than a construction that makes some words idle or unnecessary, Hill v. Gila County, 56 Ariz. 317, 324, 107 P.2d 377, 380 (1940), and the courts assume that the legislature avoids redundancy in favor of concision. O'Hara v. Superior Court, 138 Ariz. 247, 250, 674 P.2d 310, 313 (1983).

As we pointed out in I85-017, under the statutory construction principle of ejusdem generis, general words that follow the enumeration of particular classes of things should be construed as applicable only to persons or things of the same class as those enumerated, unless the application of the principle produces an absurd result. Limiting the expenditure of self-insurance program trust funds to expenses related to uninsured losses, claims and defense costs in our opinion does not result in an absurdity.

We conclude that the expenses associated with a preventive wellness program are not sufficiently related to uninsured losses, claims and defense costs associated with workers' compensation benefits to be authorized under A.R.S. § 15-382.

Sincerely,

Bob Corbin

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Attorney General

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